

REMARKS

Claims 1-47 are pending in the present Application and all claims currently stand rejected. In this Response to Office Action, claims 1, 21, 30, and 41-47 are amended. Reconsideration of the Application in view of the foregoing amendments and the following remarks is respectfully requested.

35 U.S.C. § 102(e)

On page 2 of the Office Action, the Examiner rejects claims 1, 3-16, 18-21, 23-36, and 38-47 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,649,060 to Ellozy et al. (hereafter Ellozy). The Applicants respectfully traverse these rejections for at least the following reasons.

“For a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be *identically* shown in a single reference.” *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (CAFC 1988). The Applicants submit that Ellozy fails to identically teach every element of the claims, and therefore does not anticipate the present invention.

Regarding the Examiner’s rejection of independent claims 1, 21, and 41-47, Applicants respond to the Examiner’s §102 rejection as if applied to amended independent claims 1, 21, and 41-47 which are now amended to recite “*said audio/video data including a narration provided by a narrator to identify respective subject matter locations in said audio/video data*” (emphasis added). Applicants submit that the foregoing limitations are not taught or suggested either by the cited reference, or by the Examiner’s citations thereto.

Ellozy teaches a technique for aligning a pre-existing “written transcript” with ambient speech in an A/V recording. In particular, Ellozy teaches using a speech recognizer to convert the recorded ambient speech into decoded text that is associated with timestamps. Ellozy then matches the written transcript to the decoded text to associate the timestamps with the written transcript as “index data” (see column 3, line 31 to column 4, line 67). Through this technique, Ellozy converts the pre-existing written transcript into index data.

In contrast, Applicants nowhere disclose utilizing any type of pre-existing written transcript, as taught by Ellozy. On the contrary, Applicants teach directly converting “narration” provided by a system user of the A/V capture device into the “labels” for performing search procedures. Furthermore, the narration is provided at the same time as the A/V data is recorded specifically “*to identify respective subject matter locations in said audio/video data.*”

Applicants respectfully submit that Ellozy nowhere teaches “*a narration provided by a narrator,*” and more specifically fails to teach recording a system user narration “*to identify respective subject matter locations in said audio/video data,*” as claimed by Applicants. For at least the foregoing reasons, Applicants submit that claims 1, 21, and 41-47, are not anticipated by the teachings of Ellozy.

Regarding the Examiner’s rejection of dependent claims 3-16, 18-20, 23-36, and 38-40, for at least the reasons that these claims are dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in

combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration of dependent claims 3-16, 18-20, 23-36, and 38-40.

Further regarding the rejections of claims 4 and 24, Applicants submit that Ellozy fails to teach a “*real-time label mode for creating and storing said labels*” while “*concurrently capturing said audio/video data,*” as claimed by Applicants. As discussed above, the technique of Ellozy is based upon initially generating a pre-existing “written transcript.” Therefore, Ellozy is unable to generate Applicants’ claimed “labels” in real time, while the audio/video data is being captured. For at least the foregoing reasons, Applicants therefore submit that claims 4 and 24 are not unpatentable in light of the cited reference. Applicants therefore respectfully request reconsideration of the rejections of claims 4 and 24.

With regard to the rejections of claims 5, 14, 18, 25, 34, and 38, Applicants recite using the claimed “*speech recognition engine*” to handle various system user commands for controlling corresponding claimed functionality of the present invention. Applicants submit that Ellozy fails to disclose or teach using a speech recognition engine to allow a system user to verbally control and interact with a video camcorder or other host system,” as recited by Applicants in claims 5, 14, 18, 25, 34, and 38. Applicants therefore respectfully submit that the rejections of claims 5, 14, 18, 25, 34, and 38 under 35 U.S.C. §102 are improper.

With regard to the rejections of claims 7, 12, 27, and 32, Applicants recite performing a “*post-processing procedure including a validation procedure using one or more confidence measures to eliminate invalid text labels that fail to satisfy pre-determined validation criteria*” (emphasis added). Furthermore, in claims 13 and 33, Applicants recite “*a label validation procedure for validating said text labels, said label manager generating a validation graphical user interface upon a display of said electronic device for a system user to interactively evaluate, delete, and edit said text labels*” (emphasis added).

The Examiner cites column 7, lines 53-63, of Ellozy against the limitations recited in claims 7, 12, 27, and 32. Applicants respectfully traverse, and submit that the cited passage of Ellozy fails to disclose or teach a “*validation procedure*” that uses “*confidence measures to eliminate invalid text labels,*” as recited by Applicants in claims 7, 12, 27, and 32. In addition, Applicants further submit that Ellozy nowhere teaches using a “*a validation graphical user interface*” to allow a “*system user to interactively evaluate, delete, and edit said text labels,*” as recited by Applicants in claims 13 and 33. Applicants therefore respectfully submit that the rejections of claims 7, 12, 13, 27, 32, and 33, under 35 U.S.C. § 102(e) are improper.

Because a rejection under 35 U.S.C. §102 requires that every claimed limitation be *identically* taught by a cited reference, and because the Examiner fails to cite Ellozy to identically teach or suggest the claimed invention, Applicants respectfully request reconsideration and allowance of claims 1, 3-16, 18-21, 23-36, and 38-47.

35 U.S.C. § 103

On page 8 of the Office Action, the Examiner rejects claims 2, 17, 32, and 37 under 35 U.S.C. § 103 as being unpatentable over Ellozy in view of U.S. Patent No. 6,807,367 to Durlach (hereafter Durlach). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria must be met, as set forth in M.P.E.P. §2142:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations" (emphasis added).

The initial burden is therefore on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

With regard to claims 2 and 22, the Examiner concedes that Ellozy fails to "explicitly teach wherein said electronic device is implemented as an audio/video camcorder device." Applicants concur. The Examiner then points to Durlach to purportedly remedy this deficiency in Ellozy. Applicants respectfully traverse. The Examiner cites column 1, lines 43-55, of Durlach to support the rejections of

claims 2 and 22. Applicants submit that column 1, lines 43-55, of Durlach contains only the briefest mention of the word “camcorder,” without any relevant teaching of a combination with Ellozy to produce Applicants’ invention.

The Examiner then cursorily concludes that “[t]herefore, it would have been obvious to one in the ordinary skill in the art . . . because . . . creating a new movie image content is relatively inexpensive and straightforward even for the individual consumer.” Applicants respectfully submit that a *general restatement of the advantages disclosed by the Applicants* deriving from implementation of the present invention cannot act as the required teaching or suggestion to combine cited references for a proper rejection under 35 U.S.C. § 103. Courts have repeatedly held that “it is impermissible . . . simply to engage in *hindsight reconstruction* of the claimed invention, using the Applicants’ structure as a template and selecting elements from references to fill in the gaps.” In re Gorman, 18 USPQ 1885, 1888 (CAFC 1991).

With further regard to the rejections of claims 2 and 22, Applicants submit that both camcorders and speech recognition have been known in the corresponding arts for some time. Applicants submit that their unique solution of utilizing a “speech recognition engine” to efficiently create their claimed “labels” to facilitate a “label search mode” indicates the clear existence of secondary indicia of non-obviousness. For example, there apparently has been a long-felt need for Applicants’ solution in the relevant technological field. Furthermore, other entities and individuals in analogous arts have apparently failed to

successfully overcome the foregoing problems in the manner disclosed by Applicants.

With regard to claims 17 and 37, the Examiner concedes that Ellozy fails to “explicitly teach display.” Applicants concur. The Examiner then points to Durlach to purportedly remedy this deficiency in Ellozy. Applicants respectfully traverse. The Examiner cites column 1, lines 12-17, of Durlach to support the rejections of claims 17 and 37. Applicants submit that column 1, lines 12-17, of Durlach nowhere teaches any sort of GUI. More specifically, Applicants submit that column 1, lines 12-17, of Durlach fails to teach “*a label-search GUI on a display of said electronic device, a system user viewing said labels and corresponding representative images from said audio/video data for selecting a search label,*” as claimed by Applicants.

For at least the foregoing reasons, the Applicants submit that claims 2, 17, 32, and 37 are not unpatentable under 35 U.S.C. § 103 over Ellozy in view of Durlach, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 2, 17, 32, and 37 under 35 U.S.C. § 103.

Examiner Interview Summary

On August 14, 2006, Applicants' representative, Gregory Koerner, held an Examiner's Interview with Examiner Myriam Pierre to discuss various differences between the cited references and Applicants' claimed invention. Applicants argued that Ellozy fails to teach "*said audio/video data including a narration provided by a narrator to identify respective subject matter locations in said audio/video data.*" In addition, Applicants argued that Ellozy fails to teach using the claimed "*speech recognition engine*" to recognize various types of user commands. Applicants also argued that Ellozy nowhere teaches a "*real-time label mode*" as claimed by Applicants. Furthermore, Applicants argued that Ellozy fails to teach a "*post-processing procedure including a validation procedure using one or more confidence measures to eliminate invalid text labels that fail to satisfy pre-determined validation criteria,*" as claimed by Applicants. Finally, Applicants argued that the citations to Durlach fail to support the rejections of Applicants' claimed "*audio/video camcorder*" and "*label-Search GUI.*"

Summary

Applicants submit that the foregoing amendments and remarks overcome the Examiner's rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a).

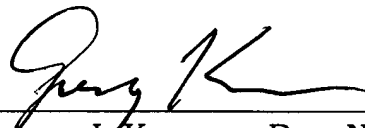
Because the cited references, and the Examiner's citations thereto, do not teach or suggest the claimed invention, and in light of the differences between the claimed invention and the cited prior art, Applicants therefore submit that the claimed invention is patentable over the cited art, and respectfully request the Examiner to allow claims 1-47 so that the present Application may issue in a timely manner. If there are any questions concerning this Response, the Examiner is invited to contact the Applicants' undersigned representative at the number provided below.

Respectfully submitted,

Date: _____

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By: _____



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